

the legislature can control the number of judges and decide whether to allow additional judges, would they not be able to say in effect, no, to the court, if it did not sit in the proper division?

Is that essentially your question, Delegate Key?

DELEGATE KEY: Yes.

THE CHAIRMAN: Delegate Bamberger.

DELEGATE BAMBERGER: I guess the answer to that is yes, the legislature could, as a matter of corridor bargaining with the courts say, do not increase the number to nine, unless you pledge by rule that you will have them sit in particular places.

Does that answer suggest that I understand your question?

THE CHAIRMAN: I think so.

Does Delegate Mudd yield to a question from Delegate Carson?

DELEGATE MUDD: Yes.

THE CHAIRMAN: Delegate Carson.

DELEGATE CARSON: Chairman Mudd, I understand under 5.31 that both the Court of Appeals by rule and the General Assembly by law shall have concurrent power to prescribe regulations concerning practice and procedure in all courts, as well as certain other matters; is that correct, sir?

DELEGATE MUDD: Yes, sir.

DELEGATE CARSON: Would you consider it to be one of the matters which would be within the realm of practice and procedure, the length of an appellate brief to be filed in either of the appellate courts?

THE CHAIRMAN: Delegate Mudd.

DELEGATE MUDD: The length of appellate brief?

DELEGATE CARSON: Yes.

THE CHAIRMAN: Delegate Mudd.

DELEGATE MUDD: Would that be a matter that might be provided by rule?

THE CHAIRMAN: Delegate Carson.

DELEGATE CARSON: I am asking whether the length of an appellate brief would fall within the definition of a regulation governing practice and procedure in all courts.

THE CHAIRMAN: Delegate Mudd.

DELEGATE MUDD: In my view, yes.

THE CHAIRMAN: Delegate Carson.

DELEGATE CARSON: Then, Chairman Mudd, if I understand you correctly, the General Assembly will have the right to say what the length of a brief shall be that will be filed in the appellate courts, is that correct?

THE CHAIRMAN: Delegate Mudd.

DELEGATE MUDD: The General Assembly would have the right.

THE CHAIRMAN: Delegate Carson, the Chair is at a complete loss to understand the connection between your questions and this amendment. Would you care to explain?

DELEGATE CARSON: What I am getting at there is this: is it not so that under your position both the General Assembly and the court by rule would have concurrent ability to decide the length of an appellate brief, but that the General Assembly would have no right to decide what divisions any intermediate appellate court judge would sit in.

THE CHAIRMAN: Delegate Mudd.

DELEGATE MUDD: I concur in that interpretation.

THE CHAIRMAN: Is there any further discussion?

Are you ready for the question? Delegate Adkins.

DELEGATE ADKINS: I simply would like to ask a further clarifying question of the Chairman of the Committee.

THE CHAIRMAN: Delegate Mudd, do you yield to the question?

DELEGATE MUDD: Gladly.

THE CHAIRMAN: Delegate Adkins.

DELEGATE ADKINS: Is it quite clear in the opinion of the Committee that the question of the number of judges which a litigant is entitled to have hear his case is in fact a matter of practice and procedure, and not a matter of substance?

THE CHAIRMAN: Delegate Mudd.

DELEGATE MUDD: Your question is that a litigant—

THE CHAIRMAN: Delegate Adkins.

DELEGATE ADKINS: Is it quite clear that the question of the number of judges that sits in a panel is a matter of procedure, and not in fact a matter of sub-